



MEMORANDUM

MONROE COUNTY PLANNING & ENVIRONMENTAL RESOURCES DEPARTMENT

We strive to be caring, professional and fair

To: Monroe County Development Review Committee, and
Mayté Santamaria, Director, Planning and Environmental Resources

From: Emily Schemper, AICP, Comprehensive Planning Manager

Date: December 1, 2016

Subject: REQUEST BY STANDARD MARINE SUPPLY CORP TO AMEND THE FUTURE LAND USE MAP (FLUM) OF THE MONROE COUNTY YEAR 2030 COMPREHENSIVE PLAN FROM RESIDENTIAL HIGH (RH) TO MIXED USE/COMMERCIAL (MC) FOR PROPERTY LOCATED AT 5713 FIRST AVENUE, SOUTH STOCK ISLAND.

Meeting: December 13, 2016

I. REQUEST

On October 11, 2016, Standard Marine Supply Corp (Agent: Trepanier & Associates) submitted an application requesting to amend the Future Land Use Map (FLUM) of the Monroe County Year 2030 Comprehensive Plan from Residential High (RH) to Mixed Use/Commercial (MC) for property located at 5713 First Avenue, South Stock Island, having real estate number 00124700.000000.

Existing FLUM Designation



Proposed FLUM Designation



II. BACKGROUND INFORMATION

Site Information

Location: Stock Island,

Address: 5713 First Avenue

Legal Description: Block 34, Lots 11, 12, 13, 14, and 15, McDonald's plat of Stock Island (Plat Book 1, Page 55), Stock Island, Monroe County, Florida

Real Estate Number: 00124700.000000

Owner/Applicant: Standard Marine Supply Corp

Agent: Trepanier & Associates

Size of Site: 31,250 SF (0.72 acres)

Land Use District (Zoning): Urban Residential Mobile Home Limited (URM-L)

FLUM Designation: Residential High (RH)

Tier Designation: Tier 3

Flood Zones: AE (EL 9)

Existing Use: Light Industrial (Car Quest Auto Parts)

Existing Vegetation/Habitat: Scarified

Community Character of Immediate Vicinity: Adjacent land has FLUM designations of RH and MC. Adjacent uses include mobile home parks, commercial retail, restaurant, and light industrial uses.

The subject property currently has a FLUM designation of Residential High (RH) and a Land Use District (Zoning) designation of Urban Residential Mobile Home Limited (URM-L). The property was within an BU-2 (Medium Business) district prior to September 15, 1986 when it was re-designated as Urban Residential-Mobile Home (URM) (the final adoption of the Zoning map was in 1992). In 1996, the zoning designation was amended from URM to URM-L (Ordinance 009-1996). With the adoption of the Comprehensive Plan's FLUM in 1997, the subject parcel was given its current FLUM designation of RH.

The subject property is currently developed with a light industrial use, including a 9,963 SF auto parts/repair building and associated outdoor storage.

The applicant is also requesting a corresponding amendment to the Zoning designation for the property from URM-L to Mixed Use (MU). *The subject of this staff report is the proposed FLUM amendment.*

Lawful Nonconformity

On June 18, 2012, the Planning & Environmental Resources Department issued a Letter of Development Rights Determination (LDRD) (with an addendum issued on August 13, 2012), which recognized the existing light industrial use as lawfully established and also determined that the existing building consists of 9,963 square feet.

The existing light industrial use on the subject parcel is not an allowed use in the RH FLUM category. Monroe County Comprehensive Plan (MCCP) Policy 101.5.4 states, "the principal purpose of the Residential High (RH) future land use category is to provide for high-density single-family, multi-family, and institutional residential development, including mobile homes and manufactured

housing, located near employment centers,” and does not refer to light industrial or other nonresidential uses. Further, per MCCC Policy 101.5.25, the maximum intensity for nonresidential uses in the RH FLUM is zero (0).

The existing light industrial use is therefore not consistent with the RH FLUM category, as it does not conform to its purpose or density and intensity standards. As such, it is considered a nonconforming use to the provisions of the Comprehensive Plan, and as it was lawfully established, the light industrial use may continue to exist per the nonconformity policies provided under Objective 101.8.

The applicant is requesting to amend the FLUM designation from RH to MC in order to eliminate the nonconformity. The proposed FLUM amendment, together with the associated proposed LUD amendment from URM-L to MU, will eliminate the nonconformity of the use.

The current Planning & Environmental Resources Department’s fee schedule (adopted August 17, 2016 by Resolution #152-2016) includes a special provision for properties with certain nonconforming uses. The BOCC first adopted this provision as an amendment to the fee schedule on April 18, 2012 by Resolution #127-2012. This resolution amended the Planning & Environmental Resources Department’s fee schedule to waive application fees for property owners applying for a LUD map and/or FLUM amendment that eliminates a lawfully established nonconforming use created with the final adoption of the LUD map and/or FLUM, and which does not create an adverse effect on the community. To be exempt from the FLUM amendment application fee, the property owner must provide satisfactory evidence that the existing use on the site also existed lawfully in 1997 and was deemed nonconforming by final adoption of the FLUM.

On August 8, 2013, Monroe County Planning staff issued a Letter of Understanding (LOU) concerning the property (File #2013-080; Exhibit 1). As detailed in the LOU, staff has found that there is satisfactory evidence that the existing light industrial use on the site was lawfully established, and also existed lawfully in 1992 and was deemed nonconforming by final adoption of the LUD map; and the use existed lawfully on the site in 1997 and was deemed nonconforming by final adoption of the FLUM.

In the LOU, staff also determined that, if the applicant requests a FLUM and/or LUD designation that permits the existing light industrial use, the request would qualify for the fee exemption to the FLUM and/or LUD Amendment. The applicant’s request to change the FLUM designation of the property to MC would permit the existing light industrial use, and the applicant’s request to change the Zoning designation to MU would permit the existing light industrial use; therefore, the requests qualify for the fee exemption.

Livable CommuniKeys Plan

Comprehensive Plan Policy 101.19.1 states, “Monroe County shall develop, maintain, and update periodically, as appropriate, with public input, the Livable CommuniKeys Community Master Plans.” These “CommuniKeys Plans” implement a vision that was developed by the local community.

In 2007, the BOCC adopted Policy 101.19.2(5) which incorporated the Stock Island/Key Haven Livable CommuniKeys Plan into the Monroe County Comprehensive Plan. Strategy 2.2 of the plan states, “Review and evaluate the land use designation of lawfully established non-conforming land uses and structures within the planning area to determine appropriate Land Use District designation.” Action Item 2.2.1 of the plan states, “Promote community character, establish conformance and resolve land use issues by identifying and changing the land use designation on parcels of land containing non-conforming uses and rezone as appropriate.”

The proposed FLUM amendment and associated LUD map amendment implement this Strategy and Action Item of the Stock Island/Key Haven Livable CommuniKeys Plan by resolving an existing, lawfully established land use nonconformity within the planning area.

III. AMENDMENT REVIEW

Maximum Allocated Density and Intensity by Future Land Use Map Designation

The table below provides an approximation of the development potential for residential, transient and commercial development. Section 130-156(b) of the Land Development Code states: “The density and intensity provisions set out in this section are intended to be applied cumulatively so that no development shall exceed the total density limits of this article. For example, if a development includes both residential and commercial development, the total gross amount of development shall not exceed the cumulated permitted intensity of the parcel proposed for development.”

Existing FLUM	Type	Adopted Standards	Development Potential
Residential High (RH) 0.72 acres (31,250 sf) 5 platted lots	Residential Allocated Density/Acre	6 du/acre (URM/URM-L zoning)	5.0 du
	Transient Allocated Density/Acre	10 rooms/spaces /acre	7.2 rooms/spaces
	Nonresidential Maximum Intensity	0 FAR	0 sf
Proposed FLUM	Type	Adopted Standards	Development Potential
Mixed Use/Commercial (MC) 0.72 acres (31,250 sf)	Residential Allocated Density/Acre	6 du/acre (UC zoning)	4.3 du*
	Transient Allocated Density/Acre	15 rooms/spaces /acre	10.8 rooms/spaces
	Nonresidential Maximum Intensity	0.60 FAR (MI zoning)	18,750 sf*
Net Change in Development Potential Based on FLUM	Residential: -0.7 du		
	Transient: +3.6 rooms/spaces		
	Nonresidential: +18,750 sf		

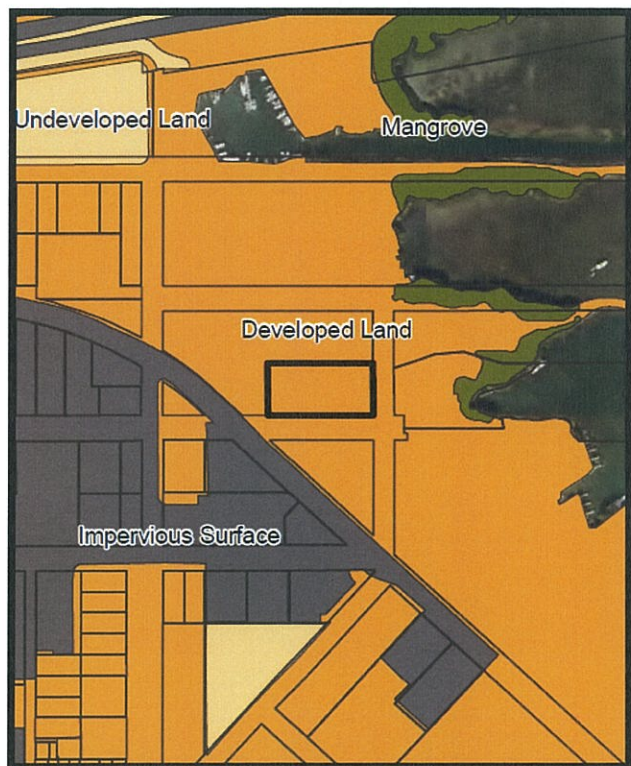
*The applicant is requesting MU zoning, which has a maximum residential allocated density of 1 du/acre (max development potential for this site would be 0.7 du); and a maximum F.A.R. of 0.40 (max development potential for this site would be 12,500 sf).

As shown in the table above, the proposed FLUM amendment would result in a decrease of 0.7 dwelling units in residential development potential, an increase in transient residential development potential of 3.6 rooms/spaces and an increase in nonresidential development potential of 18,750 sf.

Compliance with Comprehensive Plan Policy 101.4.20

Pursuant to Policy 101.4.20 (discouragement policy) of the Comprehensive Plan, private applications which propose increases in residential allocated density must comply with the mitigation requirements of the policy. Based on the above analysis of net change in development potential, the proposed FLUM amendment would decrease the residential allocated density of the site, and therefore is not subject to the mitigation requirements of Policy 101.4.20.

Compatibility with the Surrounding Area



- a. Existing Vegetation/Habitat: Scarified
- b. Existing Tier Designation: Tier 3
- c. Endangered Species Habitat: zero species focus areas or buffers
- d. Existing Use: Vacant Land
- e. Community Character of Immediate Vicinity: Adjacent uses include mobile home parks, commercial retail, restaurant, and light industrial uses.

The proposed change in FLUM designation is consistent with the historical use of the subject property (light industrial) as well as the character of surrounding commercial, light industrial, and high density residential uses.

Concurrency Analysis (Comprehensive Plan Policy 101.1.1)

Traffic Circulation (Comprehensive Plan Policy 301.1.1)

The subject property is located on Stock Island with nearest access to US1 via 2nd Street at approximate mile marker 5. The 2015 US 1 Arterial Travel Time and Delay Study for Monroe County indicates levels of service (LOS) of “B” for Segment 1 (Stock Island, mm 4.0-5.0), with 1,986 reserve trips. U.S 1 is required to maintain a LOS of “C” in order to support development.

The proposed FLUM amendment would result in a decrease in permanent residential development potential, an increase in transient residential development potential of 3.6 rooms/spaces and an increase in nonresidential development potential of 18,750 sf. At the time of any development approval on the site, traffic concurrency will be reviewed and must maintain a LOS of “C” on Segment 1 of US1. Therefore, the proposed FLUM amendment is not anticipated to adversely impact the Traffic Circulation LOS.

Potable Water (Comprehensive Plan Policy 701.1.1)

FKAA’s Water Treatment Facility in Florida City has a maximum water treatment design capacity of 29.8 million gallons per day (MGD). This consists of 23.8 MGD from the Biscayne Aquifer through the primary conventional water treatment process and 6 MGD from the brackish Floridan Aquifer through the secondary Reverse Osmosis (RO) treatment plant. There are also two saltwater Reserve Osmosis (RO) plants, located on Stock Island and Marathon, which are able to produce potable water under emergency conditions. The RO desalination plants have design capacities of 2.0 and 1.0 MGD of water, respectively. The 2015 projection for annual average daily demand is 17.76 MGD which is well below FKAA’s Water Use Permit amount of 23.98 MGD.

Per Policy 701.1.1, the adopted LOS for potable water in Monroe County is 100 gal/capita/day. The proposed FLUM amendment would result in a decrease in residential development potential, and therefore is not anticipated to adversely impact the Potable Water LOS.

Solid Waste (Comprehensive Plan Policy 801.1.1)

Monroe County has a contract with Waste Management through September 30, 2024. The contract authorizes the use of in-state facilities; thereby, providing the County with approximately eight years of guaranteed capacity for the haul out and disposal of 95,000 tons/year of solid waste not including yard waste.

The proposed FLUM amendment would result in a decrease in residential development potential, and therefore no additional solid waste demand. Solid waste for nonresidential development is handled by private contract. Therefore, the proposed FLUM amendment is not anticipated to adversely impact the Solid Waste LOS.

Sanitary Sewer (Comprehensive Plan Policy 901.1.1)

The property is connected to the Key West Resort Utilities sewer system. The proposed FLUM amendment would result in a decrease in residential development potential, and is not anticipated to adversely impact the Sanitary Sewer LOS.

IV. CONSISTENCY WITH THE MONROE COUNTY YEAR 2010 COMPREHENSIVE PLAN, THE PRINCIPLES FOR GUIDING DEVELOPMENT, AND THE FLORIDA STATUTES

A. The proposed amendment is consistent with the following Goals, Objectives and Policies of the Monroe County Year 2010 Comprehensive Plan. Specifically, it furthers:

Goal 101

Monroe County shall manage future growth to enhance the quality of life, ensure the safety of County residents and visitors, and protect valuable natural resources.

Objective 101.1

Monroe County shall ensure that all development and redevelopment taking place within its boundaries does not result in a reduction of the level-of-service requirements established and adopted by this comprehensive plan. Further, Monroe County shall ensure that comprehensive plan amendments include an analysis of the availability of facilities and services or demonstrate that the adopted levels of service can be reasonably met.

Objective 101.5

Monroe County shall regulate future development and redevelopment to maintain and enhance the character of the community and protect natural resources by providing for the compatible distribution of land uses consistent with the designations shown on the Future Land Use Map.

Policy 101.5.6

The principal purpose of the Mixed Use/Commercial (MC) future land use category is to provide for the establishment of mixed use commercial land use (zoning) districts where various types of commercial retail and office may be permitted at intensities which are consistent with the community character and the natural environment. Employee housing and commercial apartments are also permitted. In addition, Mixed Use/Commercial land use districts are to establish and conserve areas of mixed uses, which may include maritime industry, light industrial uses, commercial fishing, transient and permanent residential, institutional, public, and commercial retail uses.

This future land use category is also intended to allow for the establishment of mixed use development patterns, where appropriate. Various types of residential and nonresidential uses may be permitted; however, heavy industrial uses and similarly incompatible uses shall be prohibited. The County shall continue to take a proactive role in encouraging the preservation and enhancement of community character and recreational and commercial working waterfronts.

* * *

Objective 101.8

Monroe County shall eliminate or reduce the frequency of uses which are inconsistent with the applicable provisions of the land development regulations, zoning districts, Future Land Use categories and the Future Land Use Map. In Monroe County, some nonconforming uses are an important part of the community character and the County desires to maintain such character and protect these lawfully established, nonconforming uses and allow them to be repaired or replaced.

GOAL 102

Monroe County shall direct future growth to lands which are most suitable for development and shall encourage conservation and protection of environmentally sensitive lands (wetlands, beach berm and tropical hardwood hammock).

Stock Island/Key Haven Livable CommuniKeys Master Plan**Strategy 2.2**

Review and evaluate the land use designation of lawfully established non-conforming land uses and structures within the planning area to determine appropriate Land Use District designation.

Action Item 2.2.1

Promote community character, establish conformance and resolve land use issues by identifying and changing the land use designation on parcels of land containing non-conforming uses and rezone as appropriate.

B. The proposed amendment is consistent with the Principles for Guiding Development for the Florida Keys Area, Section 380.0552(7), Florida Statutes.

For the purposes of reviewing consistency of the adopted plan or any amendments to that plan with the principles for guiding development and any amendments to the principles, the principles shall be construed as a whole and no specific provision shall be construed or applied in isolation from the other provisions.

- (a) Strengthening local government capabilities for managing land use and development so that local government is able to achieve these objectives without continuing the area of critical state concern designation.
- (b) Protecting shoreline and marine resources, including mangroves, coral reef formations, seagrass beds, wetlands, fish and wildlife, and their habitat.
- (c) Protecting upland resources, tropical biological communities, freshwater wetlands, native tropical vegetation (for example, hardwood hammocks and pinelands), dune ridges and beaches, wildlife, and their habitat.
- (d) Ensuring the maximum well-being of the Florida Keys and its citizens through sound economic development.
- (e) Limiting the adverse impacts of development on the quality of water throughout the Florida Keys.
- (f) Enhancing natural scenic resources, promoting the aesthetic benefits of the natural environment, and ensuring that development is compatible with the unique historic character of the Florida Keys.
- (g) Protecting the historical heritage of the Florida Keys.

- (h) Protecting the value, efficiency, cost-effectiveness, and amortized life of existing and proposed major public investments, including:
1. The Florida Keys Aqueduct and water supply facilities;
 2. Sewage collection, treatment, and disposal facilities;
 3. Solid waste treatment, collection, and disposal facilities;
 4. Key West Naval Air Station and other military facilities;
 5. Transportation facilities;
 6. Federal parks, wildlife refuges, and marine sanctuaries;
 7. State parks, recreation facilities, aquatic preserves, and other publicly owned properties;
 8. City electric service and the Florida Keys Electric Co-op; and
 9. Other utilities, as appropriate.
- (i) Protecting and improving water quality by providing for the construction, operation, maintenance, and replacement of stormwater management facilities; central sewage collection; treatment and disposal facilities; and the installation and proper operation and maintenance of onsite sewage treatment and disposal systems.
- (j) Ensuring the improvement of nearshore water quality by requiring the construction and operation of wastewater management facilities that meet the requirements of ss. 381.0065(4)(l) and 403.086(10), as applicable, and by directing growth to areas served by central wastewater treatment facilities through permit allocation systems.
- (k) Limiting the adverse impacts of public investments on the environmental resources of the Florida Keys.
- (l) Making available adequate affordable housing for all sectors of the population of the Florida Keys.
- (m) Providing adequate alternatives for the protection of public safety and welfare in the event of a natural or manmade disaster and for a postdisaster reconstruction plan.
- (n) Protecting the public health, safety, and welfare of the citizens of the Florida Keys and maintaining the Florida Keys as a unique Florida resource.

Pursuant to Section 380.0552(7) Florida Statutes, the proposed amendment is consistent with the Principles for Guiding Development as a whole and is not inconsistent with any Principle.

C. The proposed amendment is consistent with Part II of Chapter 163, Florida Statutes (F.S.). Specifically, the amendment furthers:

163.3161(4), F.S. – It is the intent of this act that local governments have the ability to preserve and enhance present advantages; encourage the most appropriate use of land, water, and resources, consistent with the public interest; overcome present handicaps; and deal effectively with future problems that may result from the use and development of land within their jurisdictions. Through the process of comprehensive planning, it is intended that units of local government can preserve, promote, protect, and improve the public health, safety, comfort, good order, appearance, convenience, law enforcement and fire prevention, and general welfare; facilitate the adequate and efficient provision of transportation, water, sewerage, schools, parks, recreational facilities, housing, and other requirements and services; and conserve, develop, utilize, and protect natural resources within their jurisdictions

163.3161(6), F.S. - It is the intent of this act that adopted comprehensive plans shall have the legal status set out in this act and that no public or private development shall be permitted except in conformity with comprehensive plans, or elements or portions thereof, prepared and adopted in conformity with this act.

163.3177(1), F.S. - The comprehensive plan shall provide the principles, guidelines, standards, and strategies for the orderly and balanced future economic, social, physical, environmental, and fiscal development of the area that reflects community commitments to implement the plan and its elements. These principles and strategies shall guide future decisions in a consistent manner and shall contain programs and activities to ensure comprehensive plans are implemented. The sections of the comprehensive plan containing the principles and strategies, generally provided as goals, objectives, and policies, shall describe how the local government's programs, activities, and land development regulations will be initiated, modified, or continued to implement the comprehensive plan in a consistent manner. It is not the intent of this part to require the inclusion of implementing regulations in the comprehensive plan but rather to require identification of those programs, activities, and land development regulations that will be part of the strategy for implementing the comprehensive plan and the principles that describe how the programs, activities, and land development regulations will be carried out. The plan shall establish meaningful and predictable standards for the use and development of land and provide meaningful guidelines for the content of more detailed land development and use regulations.

163.3177(6)(a)2., F.S. - The future land use plan and plan amendments shall be based upon surveys, studies, and data regarding the area, as applicable, including:

- a. The amount of land required to accommodate anticipated growth.
- b. The projected permanent and seasonal population of the area.
- c. The character of undeveloped land.
- d. The availability of water supplies, public facilities, and services.
- e. The need for redevelopment, including the renewal of blighted areas and the elimination of nonconforming uses which are inconsistent with the character of the community.
- f. The compatibility of uses on lands adjacent to or closely proximate to military installations.
- g. The compatibility of uses on lands adjacent to an airport as defined in s. 330.35 and consistent with s. 333.02.
- h. The discouragement of urban sprawl.
- i. The need for job creation, capital investment, and economic development that will strengthen and diversify the community's economy.
- j. The need to modify land uses and development patterns within antiquated subdivisions.

163.3177(6)(a)8., F.S. - Future land use map amendments shall be based upon the following analyses:

- a. An analysis of the availability of facilities and services.
- b. An analysis of the suitability of the plan amendment for its proposed use considering the character of the undeveloped land, soils, topography, natural resources, and historic resources on site.
- c. An analysis of the minimum amount of land needed to achieve the goals and requirements of this section.

V. PROCESS

Comprehensive Plan Amendments may be proposed by the Board of County Commissioners, the Planning Commission, the Director of Planning, or the owner or other person having a contractual interest in property to be affected by a proposed amendment. The Director of Planning shall review and process applications as they are received and pass them onto the Development Review Committee and the Planning Commission.

The Planning Commission shall hold at least one public hearing. The Planning Commission shall review the application, the reports and recommendations of the Department of Planning & Environmental Resources and the Development Review Committee and the testimony given at the public hearing. The Planning Commission shall submit its recommendations and findings to the Board of County Commissioners (BOCC). The BOCC holds a public hearing to consider the transmittal of the proposed comprehensive plan amendment, and considers the staff report, staff recommendation, and the testimony given at the public hearing. The BOCC may or may not recommend transmittal to the State Land Planning Agency. If the amendment is transmitted to State Land Planning Agency, they review the proposal and issue an Objections, Recommendations and Comments (ORC) Report. Upon receipt of the ORC report, the County has 180 days to adopt the amendments, adopt the amendments with changes or not adopt the amendment.

VI. STAFF RECOMMENDATION

Staff recommends approval of the proposed amendment to the Future Land Use Map of the Monroe County Year 2030 Comprehensive Plan from Residential High (RH) to Mixed Use/Commercial (MC), as described in this staff report and attached as Exhibit 2, for property located at 5713 First Avenue, South Stock Island, having real estate number 00124700.000000.

VII. EXHIBITS

1. LOU dated August 8, 2013.
2. Proposed FLUM Map Amendment.

**County of Monroe
Growth Management Division**

Planning & Environmental Resources

Department

2798 Overseas Highway, Suite 410
Marathon, FL 33050
Voice: (305) 289-2500
FAX: (305) 289-2536



Board of County Commissioners

Mayor George Neugent, Dist. 2
Mayor Pro Tem, Heather Carruthers, Dist. 3
Danny L. Kolhage, Dist. 1
David Rice, Dist. 4
Sylvia J. Murphy, Dist. 5

August 8, 2013

Trepanier & Associates, Inc.
Attn: Owen Trepanier
PO Box 2155
Key West, FL 33045

SUBJECT: LETTER OF UNDERSTANDING CONCERNING THE ‘STANDARD MARINE SUPPLY CORP’ PROPERTY, LOCATED AT 5713 FIRST AVENUE, STOCK ISLAND, HAVING REAL ESTATE NUMBER 00124700.000000

Mr. Trepanier,

Pursuant to §110-3 of the Monroe County Code (MCC), this document shall constitute a Letter of Understanding (LOU). On June 27, 2013, a Pre-Application Conference regarding the above-referenced property was held at the office of the Monroe County Planning & Environmental Resources Department in Marathon. Attendees of the meeting included Mary Felger, Owen Trepanier, and Jorge Ramos (hereafter referred to as “the Applicant”) and Matt Coyle, Planner, Joseph Haberman, Planning & Development Review Manager, and Michael Roberts, Senior Administrator of Environmental Resources (hereafter referred to as “Staff”).

Materials presented for review included:

- (a) Pre-Application Conference Request Form;
- (b) Monroe County Property Record Card; and
- (c) Monroe County Land Use District Map and Future Land Use Map.

The Applicant requested a special letter of understanding in order to confirm whether the existing light industrial use on the subject property is lawfully nonconforming and how to resolve the nonconforming issue using the map amendment process. In addition, the Applicant requested whether a proposed business, described as a ‘wholesale swimming pool supply’ operation, would be considered a light industrial use and thereby be able to utilize the subject property under its current Land Use District (LUD) and Future Land Use Map (FLUM) designations.



Subject Property with Land Use Districts Overlaid (Aerial dated 2012)

Status of Existing Nonconforming Use:

The subject property currently has a LUD designation of Urban Residential Mobile Home Limited (URM-L) and a FLUM designation of Residential High (RH). It had a BU-2 district (Medium Business) designation prior to 1986 when it was re-designated as URM (and later modified to URM-L).

Regarding the development and use of the existing building on the property, the Planning & Environmental Resources Department issued a letter of development rights determination on June 18, 2012 (with an addendum issued on August 13, 2012). As stated in the June 18, 2012 letter, Staff previously determined that the existing building consists of 9,963 square feet. The oldest part of the building was built in 1958 prior to county building permit requirements, with additions permitted in 1960 (Building Permit #1145) and 1984 (Building Permits #A-11338 and #A-12319). All building permits on file for improvements to the building and site since 1960 indicate that the building has been continuously utilized for light industrial use. In addition, aerial photography supports the continuous existence of outdoor storage adjacent to the building.

As defined in Monroe County Code (MCC) §101-1, a *light industrial use* is an industrial use that is not a heavy industrial use. *Industrial use* means a use devoted to the manufacture, warehousing, assembly, packaging, processing, fabrication, storage or distribution of goods and materials whether new or used or the substantial refinishing, repair and/or rebuilding of vehicles or boats. *Heavy industrial use* means an industrial use with greater than average potential impacts on the environment and that is characterized by significant impacts on adjacent uses in terms of noise, hazards and odors, such as junkyards, marine railways and dry docks, bulk petroleum storage, and resource extraction where more than 20 percent of the use takes place outside of an enclosed building or where exterior storage equals or exceeds building floor area.

The light industrial use is not consistent with the RH FLUM category, as it does not conform to its purpose, which is set forth in Monroe County Comprehensive Plan (CP) Policy 101.4.4. Further, pursuant to CP Policy 101.4.21, the RH FLUM category has a floor area ratio of "0" for all nonresidential uses. As such it is considered a nonconforming use to the provisions of the CP and as it was lawfully established, the light industrial use may continue to exist per the nonconformity policies provided under CP Objective 101.8.

The light industrial use is not consistent with the URM-L LUD designation, as it does not conform to purpose of the URM-L district, which is set forth in MCC §130-50, and it is not listed permitted use in the URM-L district, which are set forth in MCC §130-100. Further, pursuant to MCC §130-164, the URM-L district does not have a floor area ratio assigned for light industrial use. As such it is considered a nonconforming use to the MCC and as it was lawfully established, the light industrial use may continue to exist per the nonconforming use regulations provided under MCC §102-56.

Pursuant to MCC §102-55, all known, lawful nonconforming uses may be registered with the Planning & Environmental Resources Department. Once discovered and determined to be lawful, the planning director, or his or her designee, shall add recognized lawful nonconforming uses to an official registry.

Use Classification of the Proposed 'Wholesale Swimming Pool Supply' Business:

Based on a review of documentation concerning such businesses, the business as described in the letter of understanding application and at the pre-application conference is a light industrial use. It thereby may utilize the subject property under its current URM-L LUD and RH FLUM designations.

In general, lawful nonconforming uses may continue so long as the nonconformity is not expanded. Normal maintenance and repair to permit continuation of nonconforming uses registered in accordance with MCC §102-55 may be performed.

The floor area within the existing building may be used in its entirety for the light industrial use, which includes storage, and administrative activities associated with the light industrial use. In addition, limited outdoor storage may exist. Outdoor storage a) may not be located in a required setback (per MCC §130-186), b) may not include any items that would result in significant

impacts on adjacent uses in terms of noise, hazards and odors (per MCC §101-1, *heavy industrial use*), and may not exceed 9,963 square feet in area (per MCC §101-1, *heavy industrial use*).

Note: This decision is by the Planning & Environmental Resources Department and pertains to use under the CP and MCC only. The Applicant is advised to consult with the Office of the Fire Marshal and Building Department to determine the applicability of regulations, and possible restrictions, outside of the CP and MCC that pertain to the proposed items to be stored as part of the business, such as the chlorine.

Map Amendment Process to Turn the Existing Nonconforming Use into a Conforming Use:

The Board of County Commissioners passed and adopted a Planning & Environmental Resources Department's fee schedule (currently Resolution #183-2013). Of relevance to the subject property and the development thereon, the fee schedule currently includes the following provision:

There shall be no application or other fees, except advertising and noticing fees, for property owners who apply for a map amendment to the official [Land Use District (LUD)] map and/or the official [Future Land Use Map (FLUM)], if the property owner can provide satisfactory evidence that a currently existing use on the site that also existed lawfully in 1992 was deemed nonconforming by final adoption of the LUD map and/or a currently existing use on the site that also existed lawfully on the site in 1997 was deemed nonconforming by final adoption of the FLUM. To qualify for the fee exemption, the applicant must apply for a LUD and/or FLUM designation(s) that would eliminate the non-conforming use created with adoption of the existing designation(s) and not create an adverse impact to the community. Prior to submittal of a map amendment application, the applicant must provide the evidence supporting the change and application for a fee exemption with the proposed LUD map/FLUM designations to the Monroe County Planning & Environmental Resources Department as part of an application for a Letter of Understanding. Following a review, the Director of Planning & Environmental Resources shall determine if the information and evidence is sufficient, and whether the proposed LUD map and/or FLUM designations are acceptable for the fee waiver, and approve or deny the fee exemption request. This fee waiver Letter of Understanding shall not obligate the staff to recommend approval or denial of the proposed LUD or FLUM Category.

Resolution #183-2013 requires the property owner to provide satisfactory evidence that the existing use on the site existed lawfully in 1992 and was deemed nonconforming by final adoption of the LUD map and/or the existing use on the site existed lawfully in 1997 and was deemed nonconforming by final adoption of the FLUM. Following a review, as the light industrial building was permitted prior to the adoption of the Land Development Code, Staff has determined that the existing light industrial use existed lawfully in 1992 and was deemed nonconforming by the final adoption of the LUD map. Staff has also determined that the existing light industrial use existed lawfully in 1997 and was deemed nonconforming by the final adoption of the FLUM.

Staff has found that there is satisfactory evidence indicating that the existing URM-L LUD designation and RH FLUM designation may have been assigned in error as there are no approvals of mobile homes, or unapproved applications related to mobile homes, on the subject property. If you choose new designations that permit the existing light industrial use, Staff has determined that such applications qualify for fee exemptions to the "Comprehensive Plan, Future Land Use Map (FLUM) Amendment" of \$5,531.00 and the "Land Use District Map, Amendment-Nonresidential" fee of \$4,929.00. You may submit a FLUM amendment and/or LUD amendment application without the submittal of the aforementioned application fees. However, you are responsible for all other fee requirements, including the fees for advertising (\$245.00 per application) and noticing (\$3.00 per each surrounding property per application). Please note that you are eligible for these fee waivers so long as such waivers are permitted by the fee schedule. If the fee schedule is amended to remove such a provision in the future, you may not be eligible to submit the application without such application fees.

In the letter of understanding application, the County is instructed to modify the LUD to Mixed Use (MU) and the FLUM to Mixed Use / Commercial (MC). Resolution #183-2013 requires the property owner to apply for a LUD and/or FLUM designation(s) that would eliminate the non-conforming use. Further, it is the responsibility of the property owner to decide upon a new LUD and FLUM designation and submit the corresponding applications and noticing/advertising fees.

In addition, Staff is not obligated to recommend approval of any LUD or FLUM designations proposed by the property owner. Resolution #183-2013 requires a LUD and/or FLUM designation(s) that would not create an adverse impact to the community. Staff is required to review the application on its merit and determine upon a full review that it would not create an adverse impact to the community and it is consistent with the provisions of the CP and MCC. If you choose to pursue MU LUD and MC FLUM designations, please be aware that while they would eliminate the nonconformity, such amendments would also result in additional residential density being associated with the subject property. Approval may not be granted due to CP 101.4.20, which concerns amendments which increase allowable density, and CP Policies 108.1.1 and 108.2.5, which concern amendments which, if approved, affect the intensity, density, or use of the land adjacent to or in close proximity to the Naval Air Station Key West (within the Military Installation Area of Impact (MIAI)).

For your information, the following FLUM categories and underlying LUD categories would permit light industrial use:

- Mixed Use / Commercial Fishing (MCF) FLUM:
 - Commercial Fishing Area (CFA) LUD: MCC §130-77(c)(9) [provided that light industrial uses are intended to serve the needs of the commercial fishing industry]
- Industrial (I) FLUM:
 - Industrial (I) LUD: MCC §130-77(a)(7)
 - Maritime Industries (MI) LUD: MCC §130-85(a)(4)
- Mixed Use / Commercial (MC) FLUM:
 - Mixed Use (MU) LUD: MCC §130-77(b)(9) and §130-77(c)(7)
 - Maritime Industries (MI) LUD: MCC §130-85(a)(4)
 - Suburban Commercial (SC): MCC §130-93(c)(7)
- Commercial (C) FLUM:

- o Commercial 1 (C1): MCC §130-102(b)(4)
- o Commercial 2 (C2): MCC §130-103(b)(4)

* * * * *

Pursuant to MCC §110-3, you are entitled to rely upon the representations set forth in this letter as accurate under the regulations currently in effect. This letter does not provide any vesting to the existing regulations. If the Monroe County Code or Comprehensive Plan is amended, the project will be required to be consistent with all regulations and policies at the time of development approval. The Department acknowledges that all items required as a part of the application for development approval may not have been addressed at the meeting, and consequently reserves the right for additional comment.

You may appeal decisions made in this letter. The appeal must be filed with the County Administrator, 1100 Simonton Street, Gato Building, Key West, FL 33040, within thirty (30) calendar days from the date of this letter. In addition, please submit a copy of your application to Planning Commission Coordinator, Monroe County Planning & Environmental Resources Department, 2798 Overseas Highway, Suite 410, Marathon, FL 33050.

We trust that this information is of assistance. If you have any questions regarding the contents of this letter, or if we may further assist you with your project, please feel free to contact our Marathon office at (305)289-2500.

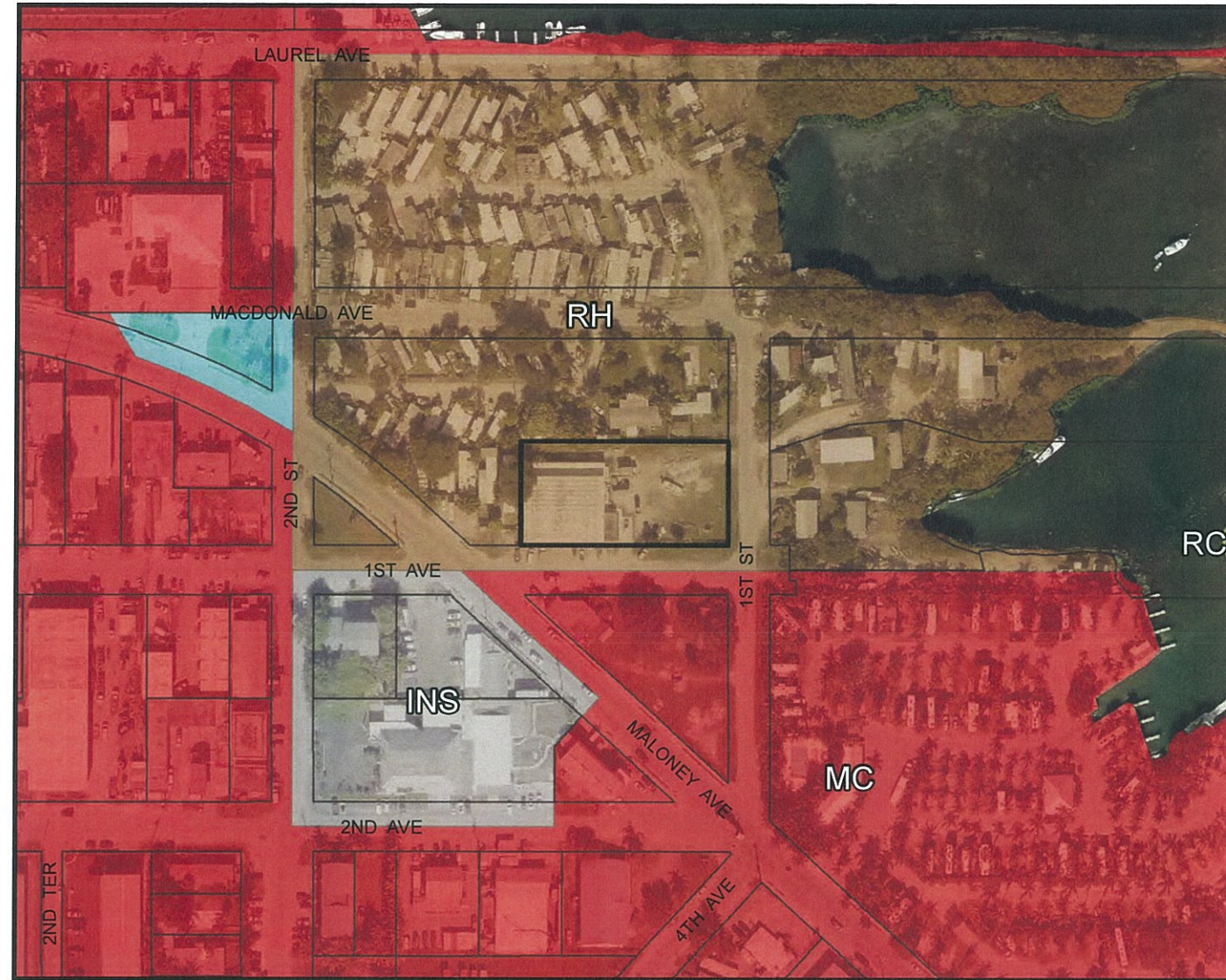
Sincerely yours,



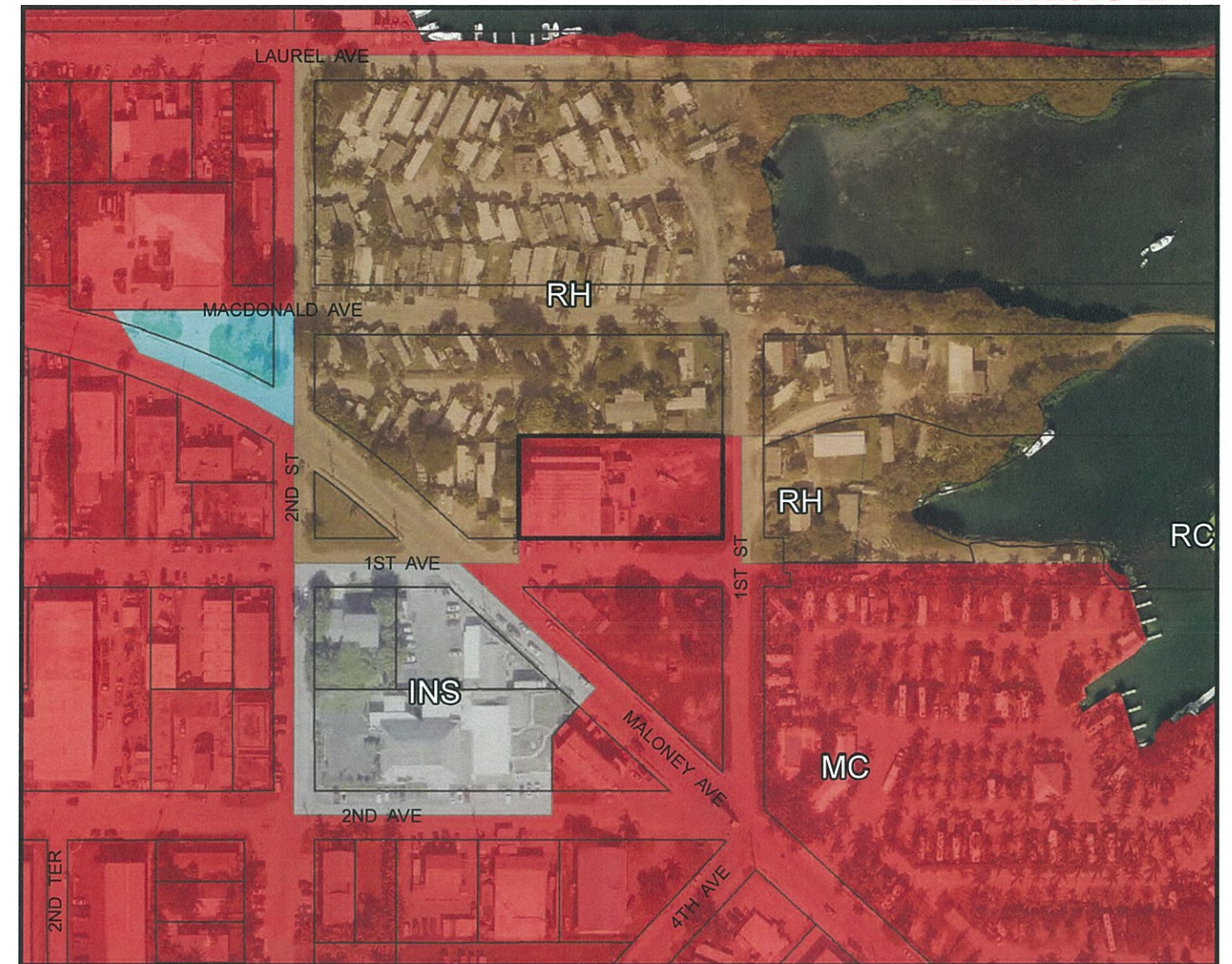
Townsley Schwab, Senior Director of Planning & Environmental Resources

CC: Joseph Haberman, Planning & Development Review Manager
Mayte Santamaria, Assistant Director of Planning & Environmental Resources
Michael Roberts, Senior Administrator of Environmental Resources

Monroe County Future Land Use Amendment

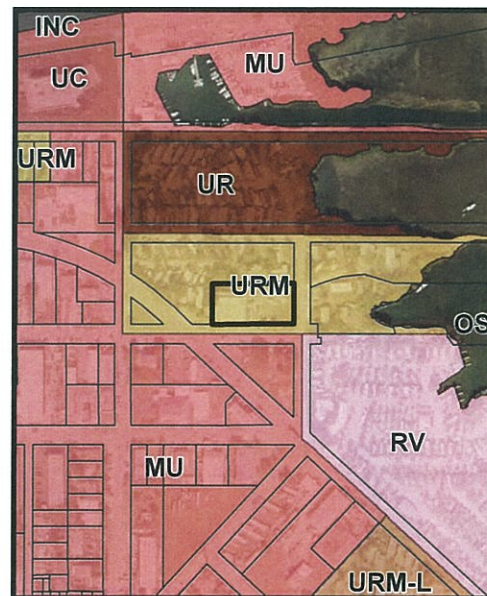


Existing Conditions

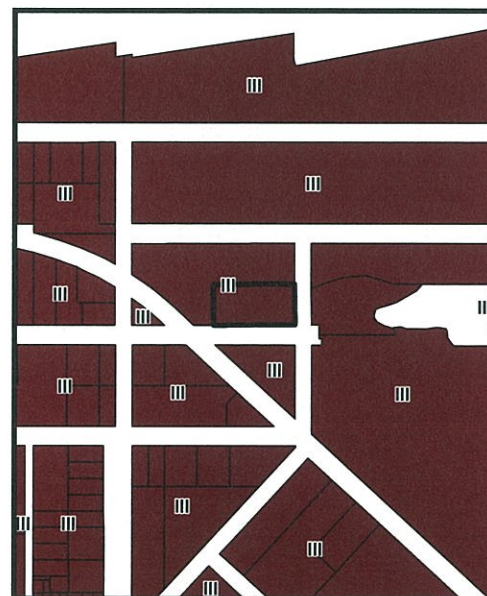


Proposed Conditions

Future Land Use Designations: A = Agriculture; AD = Airport District; C = Conservation; E = Education; I = Industrial; M = Military; MC = Mixed Use/Commercial; MCF = Mixed Use/Commercial Fishing; MN = Mainland Native; PB = Public Buildings/Grounds; PF = Public Facilities; R = Recreation; RC = Residential Conservation; RH = Residential High; RL = Residential Low; RM = Residential Medium



Land Use District



Tier Designation



Growth Management Division

We strive to be caring, professional, and fair.

The Monroe County Future Land Use District is proposed to be amended as indicated above and briefly described as:

Key: Stock Island Mile Marker: 5 Map Amendment #: _____
Acreage: 0.73 Land Use District Map #: 576

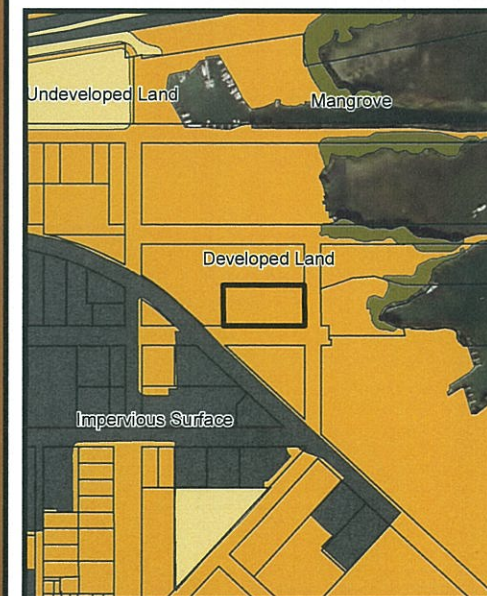
Ordinance No.: _____
Date of Adoption: _____

Proposal: Future Land Use change of one parcel of land in Stock Island having Real Estate Number 00124700-000000 from Residential High (RH) to Mixed Use/Commercial (MC)

Property Description:
RE Number: 00124510-000000



This map is for use by the Monroe County Growth Management Division only. The data contained herein is not a legal representation of boundaries, parcels, roads right of ways or other geographical data.



Habitat Type



Number of Protected Species